

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

**MOUNT VERNON SPECIALITY
INSURANCE COMPANY,
Plaintiff,**

vs.

Case No. 1:23-cv-00393-TWP-MG

**TREVOR WAYNE SIMS;
SIMS INVESTMENTS, LLC;
JOHN SONLEY;
JP SONLEY INVESTMENTS, INC.; and
JACKSON COUNTY BANK,
Defendants.**

**ENTRY OF DEFAULT JUDGMENT AGAINST CROSSCLAIM DEFENDANTS,
TREVOR WAYNE SIMS AND SIMS INVESTMENTS, LLC**

The Court, having examined Crossclaimant, Jackson County Bank's ("JCBank") Verified Motion for Entry of Default Judgment (Docket No. 78) against Crossclaim Defendants, Trevor Wayne Sims ("Sims") and Sims Investments, LLC ("Sims Investments"), and the Affidavits of Brian G. Chastain and William M. Braman attached thereto, and being duly advised in the premises, now finds that said Motion should be GRANTED.

THE COURT NOW FINDS THAT:

1. On June 5, 2023, JCBank filed its Crossclaim ("Crossclaim") ("Docket No. 29) against Defendants and Crossclaim Defendants, Sims, Sims Investments, John Sonley ("Sonley") and JP Sonley Investments, Inc. ("Sonley Investments"), alleging that JCBank's interest in the funds in the amount of \$236,000.31 interpleaded and paid to the Clerk of this Court (the "Interpleaded Funds") by Plaintiff, Mount Vernon Specialty Insurance Company, is superior to any interest in the Interpleaded Funds of all Crossclaim Defendants.

2. Sims and Sims Investments were served with JCBank's Crossclaim by United Parcel Service, return receipt requested, pursuant to the Federal Rules of Civil Procedure.

3. Sims and Sims Investments have failed to respond, plead or otherwise respond to the Alias Summons and Crossclaim within twenty-one (21) days of being served, as required by the Federal Rules of Civil Procedure.

4. On June 12, 2024, JCB fields its Verified Motion for Entry of Default against Sims and Sims Investments (Docket No. 75).

5. On July 3, 2024, the Clerk of this Court entered its Entry of Default against Sims and Sims Investments with respect to the Crossclaim (Docket No. 77).

6. On July 3, 2024, JCBank filed its Verified Motion for Entry of Default Judgment against Sims and Sims Investments (Docket No. 78), which Verified Motion is proper in form and substance.

7. JCBank's Verified Motion for Entry of Default Judgment against Sims and Sims Investments should be granted.

8. JCBank provided a mortgage loan to Sonley Investments, which was secured by real estate owned by Sonley Investments, located at 4813 South Madison Avenue, Indianapolis, Indiana (the "Real Estate").

9. Payment of the mortgage loan was secured by a Mortgage executed by Sonley Investments in favor of JCBank on or about September 5, 2018, with respect to the Real Estate (the "Mortgage"). The Mortgage was recorded in the Office of the Recorder of Marion County, Indiana, on September 25, 2018, as Instrument No. A201800098131. A true and accurate copy of the Mortgage is attached to the Crossclaim as **Exhibit A**.

10. Payment of the mortgage loan was further secured by an Assignment of Rents and Income dated September 5, 2018 (the "Assignment"), in which Sonley Investments assigned the rents and income from the Real Estate to JCBank. The Assignment was recorded in the Office of the Recorder of Marion County, Indiana, on September 25, 2018, as Instrument No.

A201800098132. A true and accurate copy of the Assignment is attached to the Crossclaim as **Exhibit B**.

11. On October 22, 2020, Sims, as buyer, and Sonley Investments, as seller, entered into an Agreement for the sale of the Real Estate and the Longacre Bar and Grill located on the Real Estate. A true and accurate copy of the Agreement is attached to the Crossclaim as **Exhibit C**.

12. On June 16, 2022, in Marion County, Indiana Superior Court, under Cause No. 49D04-2111-PL-037023, Sonley Investments obtained a default judgment against Sims for breach of the Agreement in the amount of \$616,540.56.

13. Pursuant to this Court's Order Granting Interpleader, dated March 27, 2023 (Docket No. 13), Plaintiff, Mount Vernon Specialty Insurance Company, interpleaded the sum of \$236,000.31 to the Clerk of this Court (the "Interpleaded Funds"), which constitutes insurance proceeds payable as a result of damage to the Real Estate.

14. Sonley Investments has an interest in the Interpleaded Funds, pursuant to (a) the insurance policy maintained by Plaintiff, Mount Vernon Specialty Insurance Company, attached as Exhibit 2 to Plaintiff's First Amended Complaint for Interpleader (Docket No. 7), (b) Section 10 of the Agreement between Sonley Investments and Sims, and (c) rights to execute against the Interpleaded Funds as a result of the judgment against Sims, pursuant to Indiana Code 34-55 *et seq.*

15. The Assignment provided by Sonley Investments, Inc., as assignor, to JCBank, as assignee, provides, in pertinent part, as follows:

NOW, THEREFORE, FOR VALUE RECEIVED, Assignor hereby grants a security interest in, transfers, and assigns to Assignee:

- (1) the immediate and continuing right to receive and collect the rents, income, profits, and issues arising out of, payable from or collected from the Premises and

the conduct of Assignor's business including all monies owed Assignor pursuant to any income producing agreement (collectively, the "Income");

- (2) all Agreements resulting from leasing, subleasing, use, or occupancy of the Premises now, heretofore or hereafter entered into, and all renewals and extensions thereof;
- (4) all payments derived therefrom including but not limited to claims for the recovery of damages to the Premises or for the abatement of any nuisance existing thereon, claims for damages resulting from any defaults, whether resulting from acts of insolvency or acts of bankruptcy or otherwise, and lump sum payments from any source or the waiver of any obligation or term thereof prior to the expiration date ("Payments");
- (5) all rights and remedies Assignor may have ("Remedies");
- (7) all rights in and to any proceeds of insurance payable to Assignor and damages or awards resulting from an authority exercising the rights of eminent domain with respect to the Premises ("Awards");
- (9) any payments made to Assignor in lieu of moneys due ("Payments In Lieu").

16. Pursuant to the foregoing language of the Assignment, JCBank has a lien and security interest in Sonley Investments' interest in the Interpleaded Funds.

17. Pursuant to the Agreed Entry filed with the Court on June 7, 2024 (Docket No. 71), Sonley Investments and Sonley have disclaimed any and all interest in the Interpleaded Funds.

18. JCBank's lien on the Interpleaded Funds as a result of the Assignment is superior to all liens, claims, or interests of Sims and Sims Investments in the Interpleaded Funds, and JCBank is entitled to the immediate possession of the Interpleaded Funds.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED BY THE COURT THAT:

A. This Court has jurisdiction of all parties, the subject matter, and this cause of action.

B. Default Judgment is entered and granted against Sims and Sims Investments as to JCBank's Crossclaim.

C. The Court hereby enters a judgment in favor of JCBank and against Sims and Sims Investments, as to the Interpleaded Funds, and, pursuant to this Entry of Default Judgment and the Agreed Entry filed with the Court on June 7, 2024 (Docket No. 71), finds that JCBank's interest in the Interpleaded Funds is superior to any interests in the Interpleaded Funds of Crossclaim Defendants, Sims, Sims Investments, Sonley Investments and Sonley.

D. The Clerk of this Court is ORDERED to pay the Interpleaded Funds to JCBank, c/o William M. Braman, Lorenzo Bevers Braman & Connell, LLP, 218 West Second Street, Seymour, IN 47274.

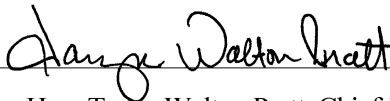
SO ORDERED.

Date: 8/23/2024

Roger A.G. Sharpe, Clerk

BY: 

Deputy Clerk, U.S. District Court



Hon. Tanya Walton Pratt, Chief Judge
United States District Court
Southern District of Indiana

Service will be made electronically on all ECF-registered counsel of record via email generated by the court's ECF system.

Service on the following will be made via first-class U.S. mail:

Trevor Wayne Sims, 3625 Kentucky Highway 518, Hustonville, KY 40437
Sims Investments, LLC, 3625 Kentucky Highway 518, Hustonville, KY 40437